UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
---x
CENGAGE LEARNING, INC.   :
(f/k/a THOMSON LEARNING, INC.)   :
PEARSON EDUCATION, INC.   :
JOHN WILEY & SONS, INC., and   :
THE MCGRAW-HILL COMPANIES, INC,   :
                                                          :
                                    Plaintiffs,   :   **ANSWER**
                                                          :   **TO DEFENDANTS'**
                                                          :   <u>**COUNTERCLAIM**</u>
                 -against-   :
                                                          :   07 Civ. 8540
                                                          :   ECF CASE
BUCKEYE BOOKS, USED BOOK EXCHANGE, :
TEXTBOOKSRUS.COM., LLC, and   :
PHILIP SMYRES,   :
                                    Defendants.   :
---x

Plaintiffs, Cengage Learning, Inc., Pearson Education, Inc., John Wiley & Sons, Inc., and

the McGraw Hill Companies, Inc., by their undersigned attorneys, as and for their Answer to

defendants' counterclaim, allege as follows:

1.   Paragraph 1 of defendants' counterclaim contains general introductory statements,

theories and legal conclusions to which no response is required, however to the extent a response

is deemed required, the allegations set forth in paragraph 1 of defendants' counterclaim are

denied.

2.   Plaintiffs deny the allegations set forth in paragraph 2 of defendants'

counterclaim. Neither defendant is a customer of plaintiffs.

3.   Plaintiffs deny the allegations set forth in paragraph 3 of defendants'

counterclaim. Neither defendant is a customer of plaintiffs.

4.   Paragraph 4 of defendants' counterclaim contains general introductory statements,

theories and legal conclusions to which no response is required, however to the extent a response

is deemed required, the allegations set forth in paragraph 4 of defendants' counterclaim are denied. Neither defendant is a customer of plaintiffs.

5.   Plaintiffs deny the allegations set forth in paragraph 5 of defendants' counterclaim.

FIRST AFFIRMATIVE DEFENSE

Defendants' counterclaim is barred by the doctrine of Noerr-Pennington.

SECOND AFFIRMATIVE DEFENSE

Defendants' counterclaim is barred by the doctrine of laches.

THIRD AFFIRMATIVE DEFENSE

Defendants' counterclaim fails to state a claim upon which relief maybe granted.

FOURTH AFFIRMATIVE DEFENSE

Defendants' are unable to prevail on their counterclaim because any acts allegedly taken by plaintiffs were not undertaken in concert.

FIFTH AFFIRMATIVE DEFENSE

Defendants are unable to prevail on their counterclaim because they have no standing to assert such claims. Defendants TRU and Smyres are not listed customers of plaintiffs and the acts complained of are alleged to have been directed by plaintiffs solely towards Buckeye Books and Used Book Exchange, over which this court does not have jurisdiction.

SIXTH AFFIRMATIVE DEFENSE

Defendants' counterclaim is barred by the doctrine of unclean hands.

SEVENTH AFFIRMATIVE DEFENSE

Defendants' counterclaim is barred by the doctrine of waiver and estoppel.

WHEREFORE, plaintiffs respectfully request this Court to grant judgment in their favor as requested in their October 2, 2007 complaint, dismiss defendants' counterclaim with prejudice, and award such other relief as this Court deems just and proper.

Dated: New York, New York
        February 12, 2008

By: _____
    Aaron P. Georghiades
    Cozen O' Connor
    Attorneys for Plaintiffs

    909 Third Avenue, 17th Floor
    New York, NY 10022
    Telephone: (212) 453-3890
    Fax: (877) 526-3076
    Email: ageorghiades@cozen.com

AFFIDAVIT OF SERVICE BY MAIL

STATE OF NEW YORK   )
) ss

COUNTY OF NEW YORK   )

       Elba Iglesias, being duly sworn, deposes and says that: Deponent is not a party to this action, is over 18 years of age and is employed by Cozen O'Connor, 909 Third Avenue, New York, NY 10022.

       On February 12, 2008 Deponent served the within ANSWER TO DEFENDANTS' COUNTERCLAIM upon:

> Neil B. Mooney, Esq.
> The Mooney Law Firm, LLC
> 1911 Capital Circle N.E.
> Tallahassee, FL 32308

       by depositing a true copy thereof in a securely sealed, properly addressed fully postpaid, first class mail wrapper in an official depository under the exclusive care and custody of the United States Post Office.

_____
ELBA IGLESIAS

Sworn to before me this 12th day
of February 2008.

_____
Notary Public